IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

S.B. CIVIL WRIT PETITION NO.4849/2007.

Niranjan Singh Baisla
Vs.
The Judge MACT Hindaun City & Ors.

Date of order : 5/12/2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Hemant Gajraj for the petitioner.
Shri Sudeep Mathur for
Shri Inderjeet Singh for the respondents.
Shri Sanjay Singhal for respondent No.2.

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BY THE COURT:-

Heard learned counsel for the parties.

2) The petitioner has filed this writ petition challenging the order dated 21/12/2006 passed by the MACT Hindaun City on the premise that recovery of the amount of award in the sum of Rs.1,95,000/- along with interest @ 12% p.a. Could not be ordered to be made from the retiral benefits of the petitioner. The petitioner retired from service on 31/7/2007. According to the petitioner, he has now received the retiral

benefits because of the interim order passed by this Court dated 16/7/2007 whereby, operation of the order dated 21/12/2006 had been stayed. Argument of the petitioner is solely on proviso (g) of Section 60 of the Code of Civil Procedure, 1908 which provides that "*stipends and gratuities allowed to pensioners of the Government [or of a local authority or of any other employer], or payable out of any service family pension fund notified in the Official Gazette by [the Central Government or the State Government] in this behalf, and political pension*" shall not be liable to be attached in execution of a decree. Reliance was also placed on proviso (h), (i) & (k) of Section 60 CPC which inter-alia provides protection in respect of amount of gratuity and salary to the extent of first Rs.1000/- and 2/3rd of the remainder and all compulsory deposits and other sums in or derived from any fund to which the Provident Funds Act, 1925 applies.

3) In view of the fact that petitioner retired from service on 31/7/2007, the retiral benefits have been paid to him, grievance of the

petitioner no longer survives in so far as recovery of the aforesaid amount from the retiral benefits of the petitioner is concerned. The writ petition has thus become infructuous. Respodnents however would be at liberty to proceed for recovery of the aforesaid amount from his other properties and by other means.

The writ petition is accordingly disposed of.

(MOHAMMAD RAFIQ), J.

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